IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 493 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

==========

NATWARLAL MULCHAND MISTRI

Versus

BHAGVANBHAI TAPUBHAI BORIYA

Appearance:

MR RAMNANDAN SINGH for Petitioner No. 1

RULE SERVED for Respondent No. 1-6

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 04/09/2002

ORAL JUDGEMENT

The present Misc. Civil Application is filed seeking prayer for transfer of Motor Accident Claim Petition No. 123/96 pending before the Motor Accident Claims Tribunal, Morbi to Motor Accident claims Tribunal at Nadiad. The transfer was sought for on the ground that the petitioner is staying at Nadiad and when the original claim petition was filed the petitioner was not

aware about the amended provisions made in the Motor Vehicles Act. Such claim petition can also be filed at the place where the claimant resides or carries on his business. It was also contended that appearing before the Claims Tribunal at Morbi causes too much inconvenience to the petitioner and that by transferring the claim petitions from Morbi to Nadiad it would not cause any prejudice to any of the respondents. It is further say of the claimant that the respondents No. 4 and 5 are residing at Kheda District and respondent No.3 is having its branch office at Nadiad. Respondent No.6 is also having its office at Vallabh Vidhyanagar which is very nearer to the Claims Tribunal at Nadiad. As far as the respondents No. 4 and 5 are concerned they may not have any objection as transfer of the claim petition would be in their interest.

2. I have heard Mr. R.N. Singh, ld. advocate appearing for the applicant. However, nobody appears on behalf of the respondents though the Rule was duly served on them. Section 166 (2) of the Motor Vehicles Act, 1988, gives an option to the claimant to file claim petition either at the place where the accident took place or at the place where the petitioner resides or carries on his business. It reads as under :

> "Every application under sub-section (1) shall be made, at the option of the claimant, either to the Claims Tribunal having jurisdiction over the area in which the accident occurred or to the Claims Tribunal within the local limits of whose jurisdiction the claimant resides or carries on business or within the local limits of whose jurisdiction the defendant resides, and shall be in such form and contain such particulars as may be prescribed :
>
> Provided that where no claim for compensation under section 140 is made in such application, the application shall contain a separate statement to that effect immediately before the signature of the applicant."

The petitioner was ignorant about this provision and the application was filed in the MACT, at Morbi. By virtue of his application seeking exercise of power of this Court under Sec. 24 of the Civil Procedure Code, the said claim petition is sought to be transferred from Morbi to Nadiad. Since there was no objection from any of the respondents and considering the reasons given by

the claimant-petitioner and the submissions made on his behalf before this Court, it is in the fitness of things that the prayer made in this petition is required to be granted and accordingly the prayer is granted. The M.A.C. Petition No. 123 of 1996,pending before the MACT, Morbi is ordered to be transferred to MACT at Nadiad forthwith. The application is allowed. Rule is made absolute with no order as to costs.

rmr. [K.A. Puj, J.]